

JUDGE CASTEL

12 CIV 4989

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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
ANDREA CARTER-BOWMAN,

Plaintiff,

-against-

ABRAMS MEDIA NETWORK,

Defendant.
----- X

:
: Civil Action No.

:
: COMPLAINT

:
: Demand for Jury Trial

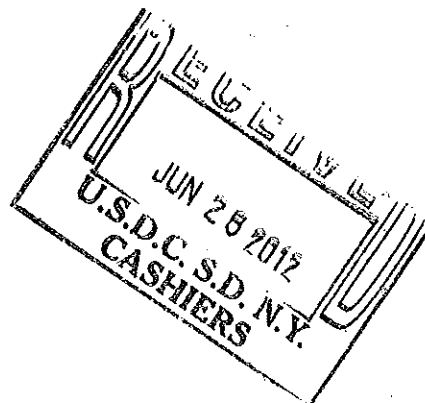
Andrea Carter-Bowman ("Plaintiff"), upon personal information and belief, hereby
alleges for her complaint against Abrams Media Network ("Defendant") the following:

Nature of the Action

1. Plaintiff seeks monetary damages and injunctive relief for federal copyright
infringement.

The Parties

2. Plaintiff is a foreign citizen domiciled in London, England.



3. Upon information and belief, Defendant owns or controls Stlyeite, LLC, and Mediaite, LLC, and is a company organized and existing under the laws of the state of New York, and maintains its principal place of business in New York.

Jurisdiction and Venue

4. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338.

5. This Court has jurisdiction over Defendant because Defendant has continuous and systematic contacts with New York, is organized and existing under the laws of the state of New York, and maintains its principal place of business in New York.

6. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b) and 1391(c) because a substantial part of the events and omissions giving rise to the claims occurred in this judicial district, and because the Defendant's contacts with this judicial district are sufficient to establish personal jurisdiction.

Facts

7. Plaintiff is a professional photographer who photographs models and sells the images to various magazines, fashion designers, and beauty product companies. Her work can be viewed at <http://www.andreacarter-bowman.com>.

8. On October 15, 2011, Plaintiff conducted a photo shoot of Charlotte "Lottie" Moss, creating the photographs identified in Exhibit 1 hereto ("Copyrighted Works").

9. Each of the Copyrighted Works consists of material original with Plaintiff, and each is copyrightable subject matter.

10. Plaintiff is the owner of all rights, title, and interests to each of the Copyrighted Works. A true and correct copy of the Copyrighted Works registration is attached hereto as

Exhibit 2. A supplemental registration was obtained on April 12, 2012. A true and correct copy is attached hereto as Exhibit 3.

11. Lottie Moss is the younger half-sister of the famous fashion model Kate Moss, was thirteen years old at the time of the shoot, and was participating in her first professional photo shoot.

12. Under section 106 of the Copyright Act of 1976, 17 U.S.C. § 101 et seq. (the "Copyright Act"), Plaintiff has the distinct, severable, and exclusive rights, inter alia, to reproduce, distribute, and publically display the Copyrighted Works. 17 U.S.C. §§ 106(1), (3), & (5).

13. Upon information and belief, in or about November, 2011, Defendant made and/or caused to be made unauthorized copies of the Copyrighted Works and without permission, consent, or authority, displayed the Copyrighted Works on two of its websites, www.styleite.com and www.mediaite.com.

14. On December 21, 2011 counsel representing Plaintiff's interests sent Defendant a letter, in which Plaintiff demanded that Defendant cease and desist from engaging in its infringing activity and compensate Plaintiff for its unauthorized use up until that point.

15. On December 28, 2011, counsel for Defendant sent Plaintiff's representative an email, stating that it had removed all infringing photos on its www.styleite.com, but made no mention of whether it would remove the Copyrighted Works from its other website www.mediaite.com, nor offered any compensation.

16. On January 9, 2012, Plaintiff's representatives sent another letter to Defendant inquiring as to the status of the Copyrighted Works on www.mediaite.com, and as to Plaintiff's demand for fair compensation for the unauthorized use.

17. On information and belief, Defendant removed the Copyrighted Works from its websites but in their place, on both websites, provided a link to www.fashionising.com, where all of the Copyrighted Works are displayed without permission.

COUNT I
Direct Copyright Infringement

18. Plaintiff realleges and incorporates herein by reference each and every allegation of paragraphs 1 through 17 as though fully set forth herein.

19. Defendant was aware that Plaintiff had an exclusive right to display the Copyrighted Works.

20. Defendant's unauthorized copying of the Copyrighted Works constitutes direct infringement of Plaintiff's exclusive rights under the Copyright Act to reproduce the Copyrighted Works.

21. Defendant's unauthorized displaying of the Copyrighted Works constitutes direct infringement of Plaintiff's exclusive rights under the Copyright Act to publically display the Copyrighted Works.

22. Defendant's conduct constitutes infringement of Plaintiff's copyrights and exclusive rights in the Copyrighted Works in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

23. The infringement of Plaintiff's rights in and to each of the Copyrighted Works constitutes a separate and distinct act of infringement.

24. As a direct and proximate result of the infringements by Defendant of Plaintiff's copyrights and exclusive rights in the Copyrighted Works, Plaintiff is entitled to her actual damages and Defendant's profits pursuant to 17 U.S.C. § 504(b).

25. Due to the willful infringement, Plaintiff is entitled to the maximum statutory damages allowed pursuant to 17 U.S.C. § 504(c) with respect to each work infringed.

26. Defendant's conduct has caused great and irreparable injury to Plaintiff, and unless enjoined by this Court may cause more injury that cannot fully be compensated in money. Plaintiff has no adequate remedy at law. Pursuant to 17 U.S.C. § 502, Plaintiff is entitled to injunctive relief prohibiting further infringements of Plaintiff's copyrights.

27. Plaintiff is entitled to her attorney's fees and costs pursuant to 17 U.S.C. § 505.

COUNT II
Contributory Copyright Infringement

28. Plaintiff realleges and incorporates herein by reference each and every allegation of paragraphs 1 through 27 as though fully set forth herein.

29. Defendant was aware that Plaintiff had an exclusive right to display the Copyrighted Works.

30. By creating a link on not one, but both of its websites to another website where the Copyrighted Works are being displayed without permission, Defendant is enabling, inducing, facilitating, and materially contributing to each act of infringement by infringing users. Defendant's conduct constitutes contributory infringement of Plaintiff's copyrights and exclusive rights in the Copyrighted Works in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

31. Defendant's acts of contributory infringement have been willful, intentional, and purposeful, in reckless disregard of and with indifference to Plaintiff's rights in that Defendant knew that it did not have the right to use Plaintiff's Copyrighted Works in the manner it used them.

32. The infringement of Plaintiff's rights in and to each of the Copyrighted Works constitutes a separate and distinct act of infringement.

33. As a direct and proximate result of the infringements by Defendant of Plaintiff's copyrights and exclusive rights in the Copyrighted Works, Plaintiff is entitled to her actual damages and Defendant's profits pursuant to 17 U.S.C. § 504(b).

34. Due to the willful infringement, Plaintiff is entitled to the maximum statutory damages allowed pursuant to 17 U.S.C. § 504(c) with respect to each work infringed.

35. Defendant's conduct has caused great and irreparable injury to Plaintiff, and unless enjoined by this Court will cause additional injury that cannot fully be compensated in money. Plaintiff has no adequate remedy at law. Pursuant to 17 U.S.C. section 502, Plaintiff is entitled to injunctive relief prohibiting further infringements of Plaintiff's copyrights.

36. Plaintiff is entitled to her attorney's fees and costs pursuant to 17 U.S.C. § 505.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment and relief as follows:

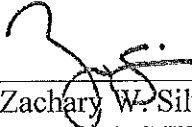
- (i) Defendant, its officers, agents, servants, employees, representatives, successors, and assignees, and all persons in active concert or participation with them, be enjoined from:
 - A. copying, reproducing, distributing, adapting, or publically displaying the Copyrighted Works;
 - B. posting the full versions or thumbnail versions of the Copyrighted Works on the internet; and
 - C. inducing, causing, materially contributing to and/or profiting from the foregoing acts committed by others;

- (ii) Defendant be ordered to destroy all copies of the Copyrighted Works, electronic or otherwise, in its possession, custody, or control;
- (iii) Defendant be ordered to remove all links between its websites and all websites that display the Copyrighted Works and be prohibited from performing advertising and linking functions for such websites;
- (iv) an award of Plaintiff's actual damages against Defendant;
- (v) an award of statutory damages pursuant to 17 U.S.C. § 504(c);
- (vi) an award of Plaintiff's costs and reasonable attorney's fees pursuant to 17 U.S.C. § 505;
and
- (vii) such other and further relief as this Court deems just and proper.

JURY DEMAND

Plaintiff demands a trial by jury in this case.

Dated: New York, NY
June 26, 2012



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Attorneys for Plaintiff

EXHIBIT 1

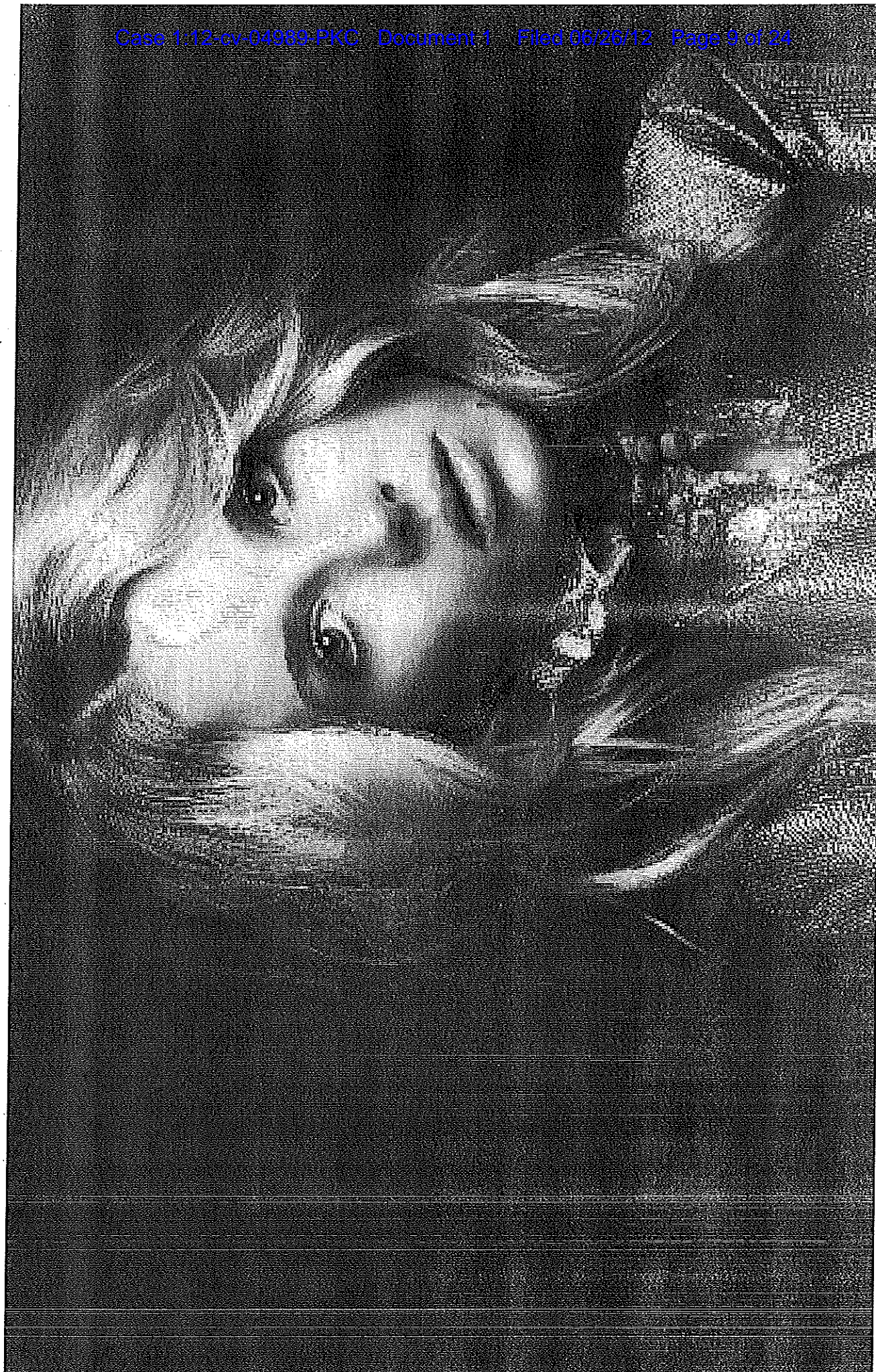


















EXHIBIT 2

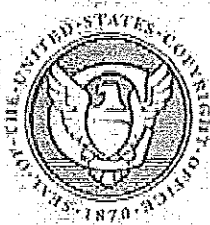
Registration #: VA0001798041

Service Request #: 1-687052081



Elekesh LTD
Melanie Marson
36 Eastcastle Street
London, W1W 8DP United Kingdom

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Maria A. Pallante

Register of Copyrights, United States of America

Registration Number
VA 1-798-041

Effective date of
registration:

November 22, 2011

Title

Title of Work: Andrea Carter-Bowman Photo Shoot - Lottie Moss First Modeling Test - 15 October 2011

Contents Titles: ACB_Lottie_15-10-11 0199_1CROP

ACB_Lottie_15-10-11 019_1CROP

ACB_Lottie_15-10-11 030_1CROP

ACB_Lottie_15-10-11 036_1CROP

ACB_Lottie_15-10-11 060_1CROP

ACB_Lottie_15-10-11 0677_1CROP

ACB_Lottie_15-10-11 067_1CROP

ACB_Lottie_15-10-11 071_1CROP

ACB_Lottie_15-10-11 104_1CROP

ACB_Lottie_15-10-11 149CROP

Completion/Publication

Year of Completion: 2011

Date of 1st Publication: November 2, 2011

Nation of 1st Publication: United Kingdom

Author

Author: Andrea Carter-Bowman

Author Created: photograph(s)

Work made for hire: No

Citizen of: United Kingdom

Domesticated in: United Kingdom

Copyright claimant

Copyright Claimant: Andrea Carter-Bowman

Flat 1, 1 Benifort Street, London, SW3 5AQ, United Kingdom

Rights and Permissions

Organization Name: Lickerish LTD

Name: Melanie Marson

Telephone: +44-020-7323 1999 (0)

Address: 000 000 0000
36 Eastcastle Street

London, W1W 8DP United Kingdom

Certification

Name: Joe G. Naylor

Date: November 22, 2011

Applicant's Tracking Number: C1024



EXHIBIT 3

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

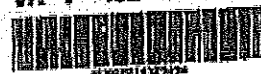
Mauri A. Pallante

Register of Copyrights, United States of America



Form CA
For Supplementary Registration
UNITED STATES COPYRIGHT OFFICE

VA 1-432-949



TX TXU PA PAU VA VAI SH SRU RE
EFFECTIVE DATE OF SUPPLEMENTARY REGISTRATION

April 12 2012
Month Day Year

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

Title of Work ☒ Andrea Carter-Bowman Photo Shoot - Little Moss First Modeling Test - 15 October 2011

Registration Number of the Basic Registration ☒
VA 1-798-041

Year of Basic Registration ☒
2011

Name(s) of Author(s) ☒
Andrea Carter-Bowman

Name(s) of Copyright Claimant(s) ☒
Andrea Carter-Bowman

Location and Nature of Incorrect Information in Basic Registration ☒

Line Number _____ Line Heading or Description _____
Incorrect Information as It Appears in Basic Registration ☒

Corrected Information ☒

Explanation of Correction ☒

Location and Nature of Information in Basic Registration to be Amplified ☒

Line Number 1 Line Heading or Description _____ Title of Work _____

Amplified Information and Explanation of Information ☒

Requesting to change the Title of Work to:

"Group of 10 Published Photos from Little Moss First Modeling Test; Published on 2 November 2011"

Change is significant to amplify that this is a Group of Published Photos and NOT a published unit.

MORE ON BACK ☒

• Complete all applicable spaces (D-G) on the reverse side of this page.
• See detailed instructions. • Sign the form in Space H.

DO NOT WRITE HERE

Page 1 of 2 pages

FORM CA RECEIVED	FORM CA
4/11/2012	
FUND RECEIVED DATE	4/12/2012
EXAMINED BY	CPD
CORRESPONDENCE	
REFERENCE TO THIS REGISTRATION ADDED TO BASIC REGISTRATION <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	

FOR COPYRIGHT OFFICE USE ONLY

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

Continuation of D Part B or L Part C

Correspondence: Give name and address to which correspondence about this application should be sent.

Joe G. Naylor, ImageRights International, Inc.
One Broadway, 14th Floor
Cambridge, MA 02142

Phone (617) 361-4939 Fax (415) 358-4210 Email joe.naylor@imagerights.com

Deposit Account: If the registration fee is to be charged to a Deposit Account established in the Copyright Office, give name and number of Account.

Name

Account Number

Certification* I, the undersigned, hereby certify that I am the: (Check only one)

☐ author ☐ owner of exclusive right(s)
☐ other copyright claimant ☒ duly authorized agent of

Andreas Carter-Bowman

Name of author or other copyright claimant, or owner of exclusive right(s) &
of the work identified in this application and that the statements made by me in this application are correct to the best of my knowledge.

Typed or printed name ☒ Joe G. Naylor

Date ☒ April 11, 2012

Handwritten signature (X) ☒

Joe G. Naylor

Certificate
will be
mailed in
window
envelope
to this
address:

Name <input checked="" type="checkbox"/>	Melania Marson
Address <input checked="" type="checkbox"/>	36 Eastcastle Street
City/State/ZIP <input checked="" type="checkbox"/>	London W1W 8DP United Kingdom

1. Complete all necessary forms 2. Send your application to Space F
3. Application fee 4. Non-refundable filing fee in Office or power of attorney payable to Register of Copyrights
U.S. Copyright Office Library of Congress Copyright Office 101 Independence Avenue, NE Washington, DC 20540-4000

*17 USC 405(c): Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 405, or in any written statement filed in connection with the application, shall be fined not more than \$2,500.

Form CA-Pub Rev. 07/2009 Print 07/2009 - 000 Printed on recycled paper

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